

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,

v.

Criminal Action No. 2:19-cr-122

RICHARD ALLEN REED,
Defendant.

ORDER

This matter comes before the Court on the government's unopposed motion to continue the trial scheduled for September 28, 2020. (Dk. No. 41.) On August 11, 2020, the Court granted the motion. (Dk. No. 42.) The Court held a conference call with both parties on August 18, 2020, to set a new trial date.

On July 8, 2020, the Court entered an Order detailing this case's procedural history, adopting Chief Judge Davis's Speedy Trial findings in General Orders Nos. 2020-06, 2020-16, and 2020-19, and excluding the period between March 16, 2020, and September 13, 2020, from the Speedy Trial calculation. (Dk. No. 40.)

For the reasons stated in its July 8, 2020 Order, the Court ADOPTS the findings in General Orders Nos. 2020-06, 2020-16, and 2020-19. Moreover, the Court again FINDS that the ends of justice served by continuing the trial during this period outweigh the best interest of the public and defendant in a speedy trial because: (1) not granting a continuance likely will make conducting a jury trial within the current speedy trial calculation period impossible considering the obstacles outlined in General Order Nos. 2020-06, 2020-16, 2020-19, and current social distancing requirements; (2) a miscarriage of justice likely would result from proceeding with a jury trial while COVID-19 continues to distract and disrupt the lives of jurors, defendants, attorneys, and court staff; and (3) even if a jury trial could be held earlier, it would be

unreasonable to expect adequate trial preparation while defendants, attorneys, and witnesses remain under “safer-at-home” and other social distancing and mobility restrictions for the foreseeable future. *See* 18 U.S.C. § 3161(h)(7)(A). Accordingly, the Court EXCLUDES the period between March 16, 2020, and September 13, 2020, from the speedy trial calculation in this matter.¹

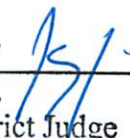
Based on this exclusion and the Court’s finding that sixty-six (66) days have elapsed for Speedy Trial purposes, the Court has until September 17, 2020, to commence trial. The parties, however, have asked the Court to schedule the trial to begin on December 14, 2020, because the government’s attorneys have another four- to five-week trial scheduled to begin on September 29, 2020. Considering this conflict and the government’s need to effectively prepare for trial, the Court FINDS that the ends of justice served by continuing the trial outweigh the best interest of the public and the defendant in a speedy trial in this case. *See* 18 U.S.C. § 3161(h)(7)(A), (B)(iv). The Court, therefore, SCHEDULES this case for a jury trial beginning on December 14, 2020, at 9:00 a.m.

If the outbreak of COVID-19 requires the Court to reschedule the jury trial, the Court will make further Speedy Trial Act findings at that time.

It is so ORDERED.

Let the Clerk send a copy of this Order to all counsel of record.

Date: 18 August 2020
Richmond, VA

<p style="text-align: center;">/s/  John A. Gibney, Jr. United States District Judge</p>

¹ Indeed, courts facing analogous circumstances have relied on the ends-of-justice continuance to exclude trial delays from the speedy trial calculation. *See, e.g., United States v. Scott*, 245 F. App’x 391, 394 (5th Cir. 2007) (affirming speedy trial continuance justified in part by the effect of Hurricane Katrina); *Furlow v. United States*, 644 F.2d 764, 768-69 (9th Cir. 1981) (affirming ends-of-justice continuance justified by eruption of Mt. St. Helens).